

RECORDATION NO.

24242 FILED

DEC 13 '02

3-33 PM

SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

December 13, 2002

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of December 13, 2002, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Seller/Assignor:	Locomotive Leasing Partners, L.L.C. c/o GATX Capital Corporation Four Embarcadero Center, Suite 2200, San Francisco CA 94111
Buyer/Assignee:	The CIT Group/Equipment Financing, Inc. 1211 Avenue of the Americas New York, NY 10036

A description of the railroad equipment covered by the enclosed document is:

19 locomotives bearing reporting marks and road numbers CORP 3864, IORY 3800 – IORY 3812, GSCX 7362, GSCX 7369, LLPX 2003, LLPX 2006 and LLPX 2008.

Mr. Vernon A. Williams  
December 13, 2002  
Page Two

A short summary of the document to appear in the index follows:

Assignment and Assumption Agreement

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alvord", with a stylized flourish extending to the right.

Robert W. Alvord

RWA/anr  
Enclosures

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SURFACE TRANSPORTATION BOARD

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of December 13, 2002 (this "Agreement"), is between Locomotive Leasing Partners, L.L.C., a Delaware limited liability company (the "Seller"), and The CIT Group/Equipment Financing, Inc., a Delaware corporation (the "Buyer").

### RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of December 13, 2002 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

### AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** Effective as to each unit of Equipment as of the date hereof, the Seller hereby assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Excluded Rights and Obligations, under each of the Leases.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by, all the terms of, the Leases. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Leases, except with respect to Excluded Rights and Obligations, and each such reference in the Leases to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Leases, except to the extent of Excluded Rights and Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

**Closing Date:** the date of the closing of the transactions contemplated by the Purchase Agreement.

**Equipment:** the units of Equipment listed on Schedule I hereto.

**Excluded Rights and Obligations:** (i) all rights to payments of indemnity that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under the Leases and any rights of the Seller to be indemnified, held harmless and defended by any indemnitor (including, without limitation, by the Lessee) under the Leases with respect to losses, damages, injuries, claims, demands, expenses and Taxes incurred or suffered by or imposed against the Seller prior to the Closing Date or in respect of any period prior to the Closing Date; (ii) all rights to payment of liability insurance proceeds that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under any insurance maintained by the Lessee pursuant to the Leases and any rights to any proceeds payable under any such liability insurance as a result of claims made against the Seller with respect to any event occurring or circumstance existing prior to the Closing Date; (iii) all rights to payments of rent, and all other periodic and non-periodic payments (not already included in clauses (i) and (ii) above), in respect of all periods prior to the Closing Date; (iv) all rights to payment in respect of Casualty Occurrences, as defined in the Master Lease, prior to the Closing Date; (v) all obligations of the Seller under the Leases to be performed prior to the Closing Date; (vi) all liabilities of the Seller under the Leases or in respect of the Equipment arising from any event occurring or circumstance existing prior to the Closing Date; and (vii) all rights and obligations of the Lessor under the Leases with respect to Mandatory Modifications, as defined in the Master Lease, as set forth in Section 2.4 of the Purchase Agreement, on and after the Closing Date, and as required to give effect to the provisions in Section 2.4 of the Purchase Agreement.

**Leases:** Lease No. 1: Supplement No. 1 to Locomotive Master Lease Agreement entered into as of September 24, 1997 by and between Lessee and Seller, incorporating the terms of the Master Lease.

Lease No. 2: Supplement No. 2 to Locomotive Master Lease Agreement entered into as of April 9, 2001 by and between Lessee and Seller, incorporating the terms of the Master Lease.

Lease No. 3: Supplement No. 3 to Locomotive Master Lease Agreement entered into as of July 3, 2001 by and between Lessee and Seller, incorporating the terms of the Master Lease.

**Lessee:** RailTex, Inc.

**Master Lease:** that certain Locomotive Master Lease Agreement dated as of May 1, 1999 by and between the Lessee and the Seller, as amended by that certain Amendment No. 1 to Locomotive Master Lease Agreement entered into as of July 1, 2000 by and between the Lessee and the Seller.

**Ownership Interest:** the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Leases, except the Excluded Rights and Obligations.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

11. **Recordation.** The Seller and the Buyer agree to record this Agreement with the Surface Transportation Board or the Registrar General of Canada, as applicable, to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Leases.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above written.

**LOCOMOTIVE LEASING PARTNERS, L.L.C.**

By: Eileen Raphael  
Name: Eileen Raphael  
Title: Vice President

**THE CIT GROUP/EQUIPMENT FINANCING,  
INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto  
as of the date first above written.

**LOCOMOTIVE LEASING PARTNERS, L.L.C.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

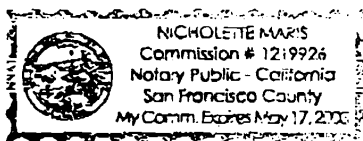
**THE CIT GROUP/EQUIPMENT FINANCING,  
INC.**

By: Nancy A. Nardella  
Name: Nancy A. Nardella  
Title: Vice President

State of California                    )  
  )  
County of San Francisco            )

On December 11, 2002 before me, Nichollette Maris, Notary Public, personally appeared Eileen Raphael, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.



Nichollette Maris  
Notary Public

My Commission Expires: May 17, 2003



State of New York                     )  
  )  
County of New York                    )

On this, the 12<sup>th</sup> day December, 2002, before me, a Notary Public in and for said County and State, personally appeared Nancy A. Nardella, a Vice President of The CIT Group/Equipment Financing, Inc., who acknowledged himself/herself to be a duly authorized officer of The CIT Group/Equipment Financing, Inc., and that, as such officer, being authorized to do so, he/she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: \_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

*[Signature]*  
BARBARA J. COHEN  
Notary Public, State of New York  
No. 016880602  
Quadrant II, North County  
Commission Expires Sept. 2, 2006

# Schedule 1

(units of Equipment)

Lease No.	# Locomotives	Year Built	Description	Reporting Marks (per the Supplements)	Current Reporting Marks
1	14	1966-1971	11 GP 38-3 locomotives equipped with D32 generators  3 GP 38-3 locomotives equipped with AR alternators	CORP 3864, IORY 3800-3812, inclusive.	DGNO 3800, DGNO 3802, DGNO 3812, NCVA 3801, NCVA 3808, CORP 3803-3805, inclusive, CORP 3807, CORP 3809-3811, inclusive, CORP 3864 and CBNS 3806
2	2	1975	SD 40-2 locomotives	GSCX 7362 and GSCX 7369	GSCX 7362 and GSCX 7369
3	3	1969	GP 38-3 locomotives equipped with D32 generators	LLPX 2003, LLPX 2006 and LLPX 2008	LLPX 2003, LLPX 2006 and LLPX 2008

(Assignment and Assumption Agreement)

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: \_\_\_\_\_

12/13/02



\_\_\_\_\_  
Robert W. Alvord